

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV233-MU-02
(3:03CR86-MU)

ELIJAH DAVIS,)	
Petitioner,)	
)	
v.)	<u>O R D E R</u>
)	
UNITED STATES OF AMERICA,)	
Respondent.)	
_____)	

THIS MATTER is before this Court upon the petitioner's Motion to Vacate, Set Aside, Or Correct Sentence" under 28 U.S.C. §2255, filed May 19, 2005.

By the instant Motion, the petitioner alleges that he was subjected to ineffective assistance of counsel, most notably due to counsel's alleged failure to timely file an appeal for him. The petitioner further alleges that this Court erred in sentencing him as a Career Offender; and that the Court erred in accepting a Plea Agreement which contained a stipulation for a drug quantity which was "attributable to all three counts of the Indictment rather than to the sole count . . ." to which he had tendered his guilty plea.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That within forty (40) days of the date of this Order, the government shall file a document responding in detail to the

petitioner's claims.

2. That the Clerk shall send copies of this Order to the petitioner and to the United States Attorney.

SO ORDERED.

Signed: May 20, 2005

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

